



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Hon. Marvin Hall, Commissioner  
Board of Insurance Commissioners  
Austin, Texas

Dear Sir:

Attention: Mr. Girard Kinney

Opinion No. O-1598

Re: Does the license issued by the Life Insurance Department of the Board of Insurance Commissioners, and held by a life insurance agent, authorize that agent to accept commission on fire or casualty insurance business when said agent does not hold a recording or soliciting agent's license as prescribed by law under Article 5062a, Vernon's Annotated Civil Statutes?

Your letter, requesting the opinion of this department on the above question, has been received.

Article 5055, Revised Civil Statutes of Texas, reads as follows:

"It shall not be lawful for any person to act within this state, as agent or otherwise, in soliciting or receiving applications for insurance of any kind whatever, or in any manner to aid in the transaction of the business of any insurance company incorporated in this state or out of it, without first procuring a certificate of authority from the Commissioner."

Article 572, of the Penal Code of Texas, makes it a penal offense for any individual to solicit insurance in behalf of any insurance company without a certificate of authority to act as agent or solicitor for such company, or after such certificate of authority shall have been canceled or revoked.

Article 5056, Revised Civil Statutes of Texas, defines who are insurance agents, which definition would

Hon. Marvin Hall, Page 2

include anyone bringing fire or casualty insurance business into the office of a licensed fire and casualty recording agent, upon which he accepts commissions. This is the situation described by you in your letter. Article 5062a, Vernon's Annotated Civil Statutes, was originally enacted by the 42nd Legislature in 1931, and provides, in part, in section 1 thereof, as follows:

"Insurance agents, as that term is defined in the laws of the state, shall for the purpose of this act be divided into two classes \* \* \*".

Article 5062a, supra, regulates the licensing of local recording agents and solicitors to represent insurance companies, section 12 thereof, in part, reading as follows:

"No provision of this act shall apply to the life insurance business or the life department of the companies engaged therein \* \* \*".

In 1933, there was enacted by the 43rd Legislature, what is now Article 5068b, Vernon's Annotated Civil Statutes, which, among other things, regulated the licensing of agents for life insurance companies, accident insurance companies, etc. It is significant that at the time of the enactment of this statute regulating the licensing of life insurance agents, there had already been enacted the above statute regulating the licensing of insurance agents, other than those pertaining to the life insurance business.

It is deemed unnecessary to set out in full these respective statutory enactments. Suffice it to point out, as recognized in your letter, that the statutes enumerate certain qualifications for licensing life, health, and accident agents and other certain qualifications for the licensing of fire and casualty agents and solicitors. We also point out that since the original enactment of these statutes, there have been subsequent amendments thereto, which, however, do not in anywise affect the question submitted by you.

These statutes evidence a clear legislative intent to require both the licensing of life insurance agents and fire and casualty company agents. Article 5062a, supra, specifically excepts life insurance agents from its operation. Article 5068b, supra, by its terms applies only to "an agent for a life insurance company, accident insurance company, life and accident, health and accident, or life, health and accident insurance company, or association, or organization, local mutual aid association, or statewide mutual association, soliciting or writing insurance in the state of Texas, as the


Hon. Marvin Hall, Page 3

term 'agent' is elsewhere defined in the law."

You are therefore respectfully advised that it is the opinion of this department that the license issued by the life insurance department, of the Board of Insurance Commissioners, would not authorize the agent holding such license to also act as agent, as that term is defined in Article 5056, supra, for fire or casualty insurance companies. Accordingly, under the facts as set out in your letter, we answer your question in the negative.

Yours very truly


ATTORNEY GENERAL OF TEXAS

By   
Wm. J. Fanning  
Assistant

By   
Zollie C. Steakley

APPROVED NOV 6, 1939

ZCS:jm

  
FIRST ASSISTANT  
ATTORNEY GENERAL

